

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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ROOFERS LOCAL NO. 30 COMBINED	:	
PENSION FUND, BOARD OF TRUSTEES,	:	
ROOFERS LOCAL NO. 30 COMBINED	:	
PENSION FUND	:	CIVIL ACTION
7000 North Broadway, Suite 106	:	
Denver, CO 80221,	:	NO. 09-CV-1445-RK
and	:	
MICHAEL O'MALLEY, in his fiduciary capacity	:	
6447 Torresdale Avenue	:	
Philadelphia, PA 19135	:	
Plaintiffs,	:	
	:	
v.	:	
D.A. NOLT, INC.	:	
53 Cross Keys Road	:	
Berlin, NJ 08009,	:	
Defendant.	:	

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**DEFENDANT D.A. NOLT, INC.'S CROSS-MOTION FOR SUMMARY JUDGMENT**

Defendant, D.A. Nolt, Inc. ("Defendant"), by and through its attorneys, Cohen, Seglias, Pallas, Greenhall & Furman, P.C., respectfully moves before this Court pursuant to Federal Rule of Civil Procedure 56 and Local Rule of Civil Procedure 7.1 for an Order granting summary judgment in favor of Defendant, enforcing the March 5, 2009 Opinion and Award and June 20, 2009 Final Award of Arbitrator Ira. F. Jaffe, Esquire resulting from arbitration conducted pursuant to 29 U.S.C. §1401(a), and awarding Defendant's attorneys' fees and costs pursuant to 29 U.S.C. §1451(e), and asserts the following grounds for this motion:

1. There is no disputed issue of material fact.
2. The Plaintiffs have failed to demonstrate, by a clear preponderance of the evidence, that any factual finding of Arbitrator Ira. F. Jaffe, Esquire was in error.
3. The Plaintiffs have failed to demonstrate that any legal determination made by Arbitrator Ira. F. Jaffe, Esquire was in error.

4. The June 20, 2009 Final Award of Arbitrator Ira. F. Jaffe, Esquire should therefore be affirmed and enforced.

5. Defendants should be awarded its attorneys' fees and costs incurred in connection with this action pursuant to 29 U.S.C. §1451(e).

**WHEREFORE**, Defendant D.A. Nolt, Inc. respectfully requests that this court enter an Order granting summary judgment and:

1. Affirming the March 5, 2009 Opinion and Award, and the June 20, 2009 Final Award, entered by Impartial Arbitrator Ira. F. Jaffe, Esquire in resolution of the arbitration conducted pursuant to 29 U.S.C. §1401(a) of the Multiemployer Pension Plan Amendments Act of 1980 ("MPPAA").

2. Enforcing paragraph 9 of the June 20, 2009 Final Award and requiring the Plaintiffs to refund to Defendant D.A. Nolt, Inc., no later than 30 days after the entry of this Order, all withdrawal liability payments made by D.A. Nolt, Inc., together with statutory interest pursuant to 29 C.F.R. §4219.31(d), .

3. Awarding D.A. Nolt, Inc., pursuant to 29 U.S.C. §1451(e), all attorneys' fees and costs incurred in connection with the instant action commenced by the Plaintiffs

**COHEN, SEGLIAS, PALLAS,  
GREENHALL & FURMAN, P.C.**

s/ Marc Furman s/ Mark J. Leavy  
**MARC FURMAN, ESQUIRE**  
**JONATHAN LANDESMAN, ESQUIRE**  
**MARK J. LEAVY, ESQUIRE**  
United Plaza, 19<sup>th</sup> Floor  
30 South 17<sup>th</sup> Street  
Philadelphia, PA 19103  
(215) 564-1700

DATED: December 23, 2009

*Attorneys for Defendant, D.A. Nolt, Inc.*